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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2020-2021

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G.C.

v.

**Baldwin County Department of Human Resources**

**Appeals from Baldwin Juvenile Court  
(JU-16-128.02 and JU-16-130.02)**

EDWARDS, Judge.

In July 2017, the Baldwin County Department of Human Resources ("DHR") filed in the Baldwin Juvenile Court ("the juvenile court") petitions seeking the termination of the parental rights of G.C. ("the mother") to J.M.R. and K.A.P.

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("the children"); those petitions were assigned case numbers JU-16-128.02 and JU-16-130.02, respectively.<sup>1</sup> After a trial held over three days in September, October, and November 2019, the juvenile court, on December 4, 2019, entered in each action a judgment terminating the mother's parental rights to each child.<sup>2</sup> On December 17, 2019, the mother filed in both actions a postjudgment motion directed to both judgments. On that same date, the mother filed in both actions a motion seeking a 14-day extension of the 14-day period for ruling on the postjudgment motion under Rule 1(B), Ala. R. Juv. P. The juvenile court granted that motion in each action and set a hearing on the postjudgment motion for January 9, 2020.

After the conclusion of the postjudgment hearing, the juvenile court, on January 9, 2020, entered in each action the following order:

"ALTER OR AMEND filed by [the mother] is hereby GRANTED IN PART and DENIED IN PART following

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<sup>1</sup>DHR also sought to terminate the parental rights of W.J.R., the father of J.M.R., and the parental rights of any alleged father of K.A.P.

<sup>2</sup>The judgments also terminated the parental rights of W.J.R. to J.M.R. and the parental rights of any alleged father to K.A.P. See note 1, supra. However, only the mother filed an appeal in each action.

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argument conducted this date. DHR to prepare order."

(Capitalization in original.) On January 22, 2020, the juvenile court entered in each action the following order, which had apparently been prepared by DHR:

"This cause came on to be heard on the 9th day of January 2020 on the Mother's Motion to Alter, Amend, or Vacate and on DHR's objection to that Motion.

"Present for that hearing were the following individuals: Laurie Hoyt, Assistant Attorney General for ... DHR; Sheila S. Schoen, Guardian ad Litem; and Abby Johnston, attorney for [the] Mother.

"The Court heard arguments of the parties present. After CONSIDERATION of the same it is hereby ORDERED, ADJUDGED and DECREED:

"The Motion is GRANTED in part and DENIED in part. The Court finds on the record that there are no viable resources available to the child. All other relief is DENIED. Termination of parental rights order will be resubmitted and signed by the Court."<sup>3</sup>

(Capitalization in original.) The mother filed her notice of appeal in each action on January 31, 2020.

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<sup>3</sup>The record in each action contains a "resubmitted and resigned" judgment terminating the mother's parental rights, entered on January 22, 2020. However, the language of those judgments differ in no respect from the judgments entered on December 4, 2019.

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"'It is well settled that jurisdictional matters are of such significance that an appellate court may take notice of them ex mero motu.'" A.J. v. Cullman Cty. Dep't of Human Res., 112 So. 3d 51, 52 (Ala. Civ. App. 2012) (quoting Kennedy v. Merriman, 963 So. 2d 86, 87-88 (Ala. Civ. App. 2007)). A parent appealing a juvenile court's judgment terminating his or her parental rights must file a notice of appeal within 14 days of the entry of the judgment or the disposition of a timely postjudgment motion directed to that judgment. See Rule 28(D), Ala. R. Juv. P. (providing that appeals from a judgment of the juvenile court be filed within 14 days after the entry of the judgment); H.J.T. v. State ex rel. M.S.M., 34 So. 3d 1276, 1279 (Ala. Civ. App. 2009) (explaining that an appeal from a juvenile-court judgment must be filed within 14 days after the entry of an order disposing of a postjudgment motion directed to that judgment). "'The timely filing of [a] notice of appeal is a jurisdictional act.'" A.J., 112 So. 3d at 52 (quoting Kennedy, 963 So. 2d at 88, quoting in turn Rudd v. Rudd, 467 So. 2d 964, 965 (Ala. Civ. App. 1985)). Rule 2(a)(1), Ala. R. App. P., provides that "[a]n appeal shall be dismissed if the notice of appeal was not timely

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filed to invoke the jurisdiction of the appellate court." Upon our preliminary determination that a jurisdictional issue existed, we requested letter briefs from the parties addressing the timeliness of the mother's appeals.

The mother, after filing her timely postjudgment motion, properly sought an extension of the 14-day period for ruling on the motion.<sup>4</sup> See Rule 1(B), Ala. R. Juv. P. (providing that a juvenile court may extend the 14-day period for ruling on a postjudgment motion by an additional 14 days on its own motion or on the motion of a party). The juvenile court granted the requested extension and held a hearing on the mother's postjudgment motion before the expiration of that extension. However, the juvenile court did not render any orders disposing of the mother's postjudgment motion within the time permitted by the extension of the 14-day period for ruling on that motion. See Rule 1(B) ("A failure by the juvenile court to render an order disposing of any pending postjudgment motion within the time permitted hereunder, or

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<sup>4</sup>We note, however, that the mother technically sought a 15-day extension by requesting an extension from December 31, 2019, to January 15, 2020. We have determined that the 14-day extension granted on the mother's motion terminated on January 14, 2020, the 14th day after December 31, 2019.

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any extension thereof, shall constitute a denial of such motion as of the date of the expiration of the period."); see also Rule 59.1, Ala. R. Civ. P. ("A failure by the trial court to render an order disposing of any pending postjudgment motion within the time permitted hereunder, or any extension thereof, shall constitute a denial of such motion as of the date of the expiration of the period."). The juvenile court's January 9, 2020, orders merely stated that the juvenile court was granting the motion "in part" and indicated that an order regarding the substance of the partial "grant" of the motion would be prepared by DHR.

Although we have found no authority expressly discussing an order like those entered in the present cases in the context of Rule 1(B), our supreme court considered an order similar to the January 9, 2020, orders issue here in Ex parte Chamblee, 899 So. 2d 244, 247 (Ala. 2004). In Ex parte Chamblee, our supreme court considered whether an order indicating that a postjudgment motion was "due to be granted" but directing that one party draft an order addressing the issues was insufficient to equate to the rendition or the entry of an order disposing of the postjudgment motion. 899

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So. 2d at 249. Our supreme court explained that "[o]ur cases interpreting and implementing Rule 59.1, Ala. R. Civ. P., have made it clear a trial judge can 'dispose of' a pending post-judgment motion only by [rendering] a ruling granting or denying the motion." 899 So. 2d at 247 (emphasis omitted).<sup>5</sup> Thus, our supreme court concluded that the trial court's order had not adjudicated the issues in the motion and was therefore not sufficient to have disposed of the postjudgment motion, stating that,

"although [the trial judge] had decided that [the postjudgment] motion for judgment as a matter of law was 'due to be granted,' [it] had not yet rendered or entered an order granting it. Rather, as reflected by the entry [the trial court] directed for the case action summary sheets, counsel ... was told to 'draft a proposed' opinion and order."

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<sup>5</sup>In Ex parte Chamblee, our supreme court was applying Rule 59.1, Ala. R. Civ. P., which, at the time the appeal was decided, required the entry of an order on a postjudgment motion before the expiration of the applicable 90-day period or any extension of that period. Rule 59.1 was amended effective October 24, 2008, to allow the rendition, as opposed to the entry, of an order on a postjudgment motion to be sufficient to prevent the automatic denial of a postjudgment motion under the rule. However, as explained infra, the same principle applies regardless of whether the order must be entered or merely rendered to be effective: the order must conclusively adjudicate the issues presented by the motion.

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Id. at 249. The January 9, 2020, orders in the present cases, like the order in Ex parte Chamblee, fail to adjudicate the issues presented in the mother's postjudgment motion and merely indicate an intent to adjudicate those issues in a forthcoming order to be prepared by DHR. Thus, the entry of the January 9, 2020, orders of the juvenile court did not satisfy the requirement that the juvenile court render an order disposing of the mother's postjudgment motion before the expiration of the extended period to rule on that motion.

The fact that the intended substance of the proposed orders that DHR was to draft in each action could be gleaned from the statements of the juvenile court at the close of the postjudgment hearing does not impact our analysis. Our supreme court rejected a similar argument in Ex parte Chamblee:

"Rule 58(a)[, Ala. R. Civ. P., which governs the procedure for the rendition of judgments and orders,] requires, in each instance, a written memorialization by the judge of his or her rendition of the order or judgment in question. Stated otherwise, Rule 58(a) does not allow for an oral rendition of a judgment or order."

899 So. 2d at 248. Rule 58(a) provides five methods by which a court may render an order or judgment:

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"(1) by executing a separate written document, (2) by including the order or judgment in a judicial opinion, (3) by endorsing upon a motion the words 'granted,' 'denied,' 'moot,' or other words of similar import, and dating and signing or initialing it, (4) by making or causing to be made a notation in the court records, or (5) by executing and transmitting an electric document to the electronic-filing system."

"[A]n oral pronouncement of a ruling does not constitute a 'rendering' of an order under Rule 58(a), Ala. R. Civ. P." K.P. v. Madison Cty. Dep't of Human Res., 243 So. 3d 835, 837 (Ala. Civ. App. 2017).

Application of the conclusion in Ex parte Chamblee is further supported by the language of Rule 58(b), which reads, in pertinent part, that "[a] written order or a judgment will be sufficient if it is signed or initialed by the judge ... and indicates an intention to adjudicate, considering the whole record, and if it indicates the substance of the adjudication." We recently considered whether a postjudgment order contained language sufficient to result in the rendition of an order disposing of a postjudgment motion in Espinosa v. Espinosa Hernandez, 282 So. 3d 1, 13 (Ala. Civ. App. 2019), a case in which a trial court entered an order indicating that it was "granting" a postjudgment motion but also set the

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matter for a later hearing to determine what portions of the judgment would be altered in response to the motion. We explained:

"The trial court's March 4, 2011, handwritten entry, however, states only that the trial court was granting the mother's postjudgment motion and setting a hearing to determine what parts of the November 2010 order were to be altered or amended. The handwritten order did not state that the November 2010 order was vacated, that the mother's request for the alternative relief of a new trial was granted, or that the mother's postjudgment motion was denied. Such entries would have indicated a decision disposing of the postjudgment motion in its entirety and would have indicated an 'intention to adjudicate' and 'the substance of [the trial court's] adjudication.' Rule 58(b). Instead, the March 4, 2011, handwritten order purports to grant the mother's postjudgment motion while simultaneously setting for another time the determination of what portion or portions of the mother's postjudgment motion would be granted or denied. Such language does not reflect the rendition of 'an order disposing of' the postjudgment motion, Rule 59.1, but, rather, indicates the trial court's postponement of the decision on the disposal of the postjudgment motion. To conclude otherwise would permit a trial court to easily evade the limited methods of extending the 90-day period for ruling on a postjudgment motion merely by purporting to grant a motion without any indication as to what decision is being made on the merits of the postjudgment motion."

Espinosa, 282 So. 3d at 14. The January 9, 2020, orders of the juvenile court fail to "indicate[] the substance of the adjudication," Rule 58(b), leaving to DHR to delineate in the

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draft orders the specific portions of the motion the juvenile court intended to grant and those it intended to deny.

Accordingly, we conclude that neither the oral pronouncement of the juvenile court at the hearing on the postjudgment motion, nor the written orders transmitted to the electronic-filing system on January 9, 2020, were effective renditions of orders disposing of the mother's postjudgment motion. Because the juvenile court failed to render orders disposing of the mother's postjudgment motion before the extension for ruling on that motion expired on January 14, 2020, see note 4, supra, the mother's postjudgment motion was denied by operation of law on that date. The mother filed her notices of appeal on January 31, 2020, more than 14 days after the denial of her postjudgment motion by operation of law. See Rule 1(B). Her appeals are therefore untimely, and we must dismiss them. See A.J., 112 So. 2d at 52.

2190367 -- APPEAL DISMISSED.

2190368 -- APPEAL DISMISSED.

Thompson, P.J., and Moore, Donaldson, and Hanson, JJ.,  
concur.